

Official Form 17A (12/14)

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
IN RE:

HOTI ENTERPRISES, L.P.,

Chapter 11
Case No. 10-24129 (RDD)

Debtor.

-----X
HOTI ENTERPRISES, L.P.,

Plaintiff,

-against-

Adv. Pro. No. 15-08221-rdd

ANDY PANKEN, STERN KEISER & PANKEN, LLP,
LAWRENCE REICH, JEFFREY REICH, REICH,
REICH & REICH PC, DELBELLO DONNELLAN
WEINGARTEN WISE & WIEDERKEHR, LLP,
ROBERT L. RATTET, JAMES B. GLUCKMAN,
RATTET PASTERNAK, LLP F/K/A RATTET,
PASTERNAK & GORDON-OLIVER, LLP,
TANYA DWYER, DWYER & ASSOCIATES, LLC
AND CARL E. PERSON,

Defendants.

-----X

NOTICE OF APPEAL AND STATEMENT OF ELECTION

Part 1: Identify the appellants(s)

1. Name(s) of appellant(s):
HOTI ENTERPRISES, L.P.

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.
xx Plaintiff

☐ Defendant

☐ Other (describe) _____

For appeals in a bankruptcy case and
not in an adversary proceeding

☐ Debtor

☐ Creditor

☐ Trustee

☐ Other (describe) _____

Part 2: Identify the subject of this appeal

1. Describe the judgment, order, or decree appealed from: Order Granting Motion for Summary Judgment in Favor Defendants Lawrence Reich, Jeffrey Reich and Reich, Reich & Reich PC
2. State the date on which the judgment, order or decree was entered: February 17, 2016

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: Carl E. Person Attorney: Pro Se
225 E. 36th Street
New York, NY 10016-3664
212-307-4444
2. Party: Lawrence Reich; Jeffrey Reich;
Reich, Reich & Reich, P.C. Attorney: Steinberg & Cavaliere, LLP
Benjamin Zelemyer, Esq.
50 Main Street
White Plains, NY 10606
3. Party: Andy Panken; Stern, Keiser &
Panken, LLP, Attorney: Goldberg Segalla LLP
Jason Ederer, Esq.
600 Lexington Avenue, Suite
Suite 900
New York, NY 10022

Peter J. Biging, Esq.
Ohrenstein & Brown
230 Park Avenue
New York, NY 10169
4. Party: Robert L. Rattet, James
Gluckman, Rattet Pasternak, LLP
aka Rattet Pasternak & Gordon
-Oliver, LLP Attorney: Margolis Bergson LLP
Robert J. Bergson, Esq.
237 West 35th Street, 4th Floor
New York, NY 10001

Eric B. Post, Esq.
Abrams Garfinkel Margolis Bergson, LLP
1430 Broadway
New York, NY 10018
White Plains, NY 10606


Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District

Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Panel 5: Sign below


Signature of attorney for appellate(s) (or appellant(s)
if not represented by an attorney)

Date: March 1, 2016

Name, address, and telephone number of attorney
(or appellant(s) if not represented by an attorney):

The Sklavos Law Group, PC

Alexander E. Sklavos, Esq.

375 N. Broadway, Suite 208

Jericho, New York 11753

For waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
IN RE:

HOTI ENTERPRISES, L.P.,

Chapter 11
Case No. 10-24129 (RDD)

Debtor.

-----X
HOTI ENTERPRISES, L.P.,

Plaintiff,

- against -

Adv. Pro. No. 15-08221-rdd

ANDY PANKEN, *et al.*,

Defendants.

-----X

**ORDER GRANTING MOTION FOR SUMMARY JUDGMENT
IN FAVOR OF DEFENDANTS LAWRENCE REICH,
JEFFREY REICH AND REICH, REICH & REICH PC**

Upon the motion (with the exhibits thereto, the “Motion”) of defendants Lawrence Reich, Jeffrey Reich and Reich, Reich & Reich PC (the “Reich Defendants”), for summary judgment under Fed. R. Bankr. P. 7056 on the claims asserted against them in the Amended Complaint filed in this Adversary Proceeding on July 31, 2015; and there being due and sufficient notice of the Motion; and, upon the plaintiff’s objection thereto, including the affidavit of Victor Dedvukaj, sworn to December 15, 2015, and the exhibits annexed thereto, plaintiff’s Counter-Statement Pursuant to Local Rule and Memorandum of Law in Opposition; and upon the Reich Defendants’ Reply Memorandum of Law and all other pleadings filed in relation to the Motion; and upon the record of the hearing held by the Court on the Motion on February 9, 2016, at which the Reich Defendants appeared by Benjamin Zelermyer, Esq., of Steinberg & Cavaliere, LLP, and plaintiff appeared by Alexandor E. Sklavos, Esq.; and after due deliberation and for the

reasons stated by the Court in its bench ruling on the Motion, the Court having found that the Motion should be granted; and good and sufficient cause appearing, it is hereby

ORDERED, that the Motion is granted, and (a) the third, fourth and twelfth causes of action in the Amended Complaint (for legal malpractice, breach of fiduciary duty and under New York Judiciary Law § 487, respectively) are dismissed on the basis that plaintiff lacks standing to bring such claims, which were assigned to another party under the confirmed chapter 11 plan in this case; (b) the fourth cause of action in the Amended Complaint (for breach of fiduciary duty) is dismissed on the alternative ground that it is duplicative of the third cause of action (for legal malpractice); (c) the third and fourth causes of action in the Amended Complaint (for legal malpractice and breach of fiduciary duty) are dismissed on the alternative ground that such claims are barred by the applicable statute of limitations; and (d) the twelfth cause of action in the Amended Complaint (under New York Judiciary Law § 487) is dismissed on the alternative ground that it fails to state a claim upon which relief can be granted, in each case ((a) through (d) above), with prejudice and without costs.

Dated: White Plains, New York
February 17, 2016

/s/Robert D. Drain
Robert D. Drain
United States Bankruptcy Judge